

Application No.: 10/635,424

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REMARKS**Present Status of the Application**

The Office Action rejected all pending claims 1, 3-7, 11 and 12. Specifically, claim 11 was rejected under 35 USC 102(b) as anticipated by or under USC 103(a) as obvious over Sisson (US 4,209,563), claims 1, 3-4, 6 and 11-12 rejected under 35 USC 103(a) as being unpatentable over Collier, IV et al. (US 5,260,126, Collier) in view of Sisson, and claims 5 and 7 rejected under 35 USC 103(a) as being unpatentable over Collier and Sisson in view of Romanek (US 4,446,189).

In response thereto, Applicants have further amended independent claims 1 and 11. The amendments raise no new matter as being supported by paragraphs [0060] and [0062] of the publication document (US 2004/0067710) of this invention. The amendments either do not raise any new issue, because the first amendment to claim 1 removes an alternative and the second amendment to claim 11 is merely for defining the spinnerets more clearly.

Discussion of Rejection to Claims 11-12 under 35 USC 102(b) and/or 103(a)

Independent claim 11 was rejected under 35 USC 102(b) as anticipated by Sisson, and also under USC 103(a) as obvious over Sisson or over Collier in view of Sisson. Claim 12 was rejected under 35 USC 103(a) as being obvious over Collier in view of Sisson. Please note that independent claim 11 has been amended.

A feature of independent claim 11 is that the elastic nonwoven fabric is one spun with spinnerets *each* having *both* a spinning hole for discharging elastomeric resin and another

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spinning hole for discharging non-elastomeric resin thereon. Collier and Sisson both fail to disclose, suggest or imply the feature for at least the reasons set forth.

As mentioned in Applicants' prior Responses, in Collier's method for fabricating an elastic nonwoven fabric, a mat or batt 70 of nonelastic fibers is cut into *short* fibers 64 and then conveyed, with another air flow, toward a stream of elastic fibers discharged from a melt-blowing die 16 (col. 13, lines 25-29 and 55-61 & FIG. 7). Accordingly, *each* spinneret used in Collier spins filaments of the elastomeric resin only, but does not spin mono-filaments of both of the elastomeric resin and the non-elastomeric resin simultaneously.

For Sisson's method, as described in col. 19, line 20 to col. 20, line 20, the non-elastomeric resin and the elastomeric resin are *respectively* melted in *two* extruders 32 and 34 and then spun with *two* spinnerets 36 and 38 after passing the *respective* connecting, filtering and homogenizing means 72 and 78. Therefore, in Sisson, *each* spinneret (36 or 38) spins mono-filaments of only one resin (non-elastomeric resin or elastomeric resin) but does not spin mono-filaments of the two resins simultaneously.

Moreover, in another method of Sisson, a non-elastomeric resin and an elastomeric resin are simultaneously fed in an extruder 32 and then conducted through the filtering and homogenizing means 72, and fibers of the mixture of non-elastomeric resin and elastomeric resin are spun by a spinneret 36. Since the means 72 set between the extruder 32 and the spinneret 36 is called filtering and homogenizing means, the non-elastomeric resin and the elastomeric resin are mixed before being spun, and *each* spinneret has no spinning hole for discharging the elastomeric resin or the non-elastomeric resin but have only spinning holes for discharging the mixed resin. Thus, each

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spinneret can only spin mono-filaments of the mixed resin but cannot spin mono-filaments of the elastomeric resin and mono-filaments of the non-elastomeric resin simultaneously.

On the contrary, since each spinneret in claim 11 of this invention has *both* a spinning hole for discharging elastomeric resin and another spinning hole for discharging non-elastomeric resin thereon (see FIG. 1, for example), *each* spinneret in claim 11 spins mono-filaments of the two resins simultaneously.

Since the elastic nonwoven fabric of claim 11 is one made with the spinnerets quite different from those used in Collier and Sisson, the elastic nonwoven fabric of claim 11 is surely different from that of Collier or Sisson *in the texture structure*. This means that the *process* (a melt-blowing method or a spunbonding method using spinnerets each having both a spinning hole for elastomeric resin and another spinning hole for non-elastomeric resin thereon) included in the *product* claim 11 *eventually causes a structural feature of the product*, as required by the related rules described in MPEP.

The above feature of claim 11 is either not a trivial modification of the prior art, for the elastomeric and non-elastomeric *long* fibers are mixed more uniformly in the web with the spinnerets of claim 11, as described in [0060] and [0062] of the publication document (US 2004/0067710) of this invention.

Accordingly, Collier and Sisson both fail to disclose the above feature of claim 11. Collier, Sisson or their combination either does not suggest or imply the feature, for there is no teaching in Collier or Sisson that a spinning hole for elastomeric resin and a spinning hole for non-elastomeric resin can be *simultaneously* formed on one spinneret.

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For at least the above reasons, Applicants respectfully submit that independent claim 11 patently defines over the prior art.

For at least the same reasons mentioned above, Applicants respectfully submit that claim 12 dependent from claim 11 also patently defines over the prior art.

Discussion of Rejections to Claims 1 & 3-7 under 35 USC 103(a)

Claims 1, 3-4 & 6 were rejected under 35 USC 103(a) as being obvious over Collier in view of Sisson, and claims 5 & 7 rejected under 35 USC 103(a) as being obvious over Collier and Sisson in view of Romanek. Please note that claim 1 has been further amended.

One feature of the elastic nonwoven fabric of claim 1 is that the long elastomeric fiber and the long nonelastomeric fiber are manufactured with a melt-blowing method. Collier and Sisson both fail to disclose, suggest or imply the feature for at least the reasons set forth, while *Romanek is not correlated with the feature at all.*

For Collier, the non-elastomeric fibers may be made with a melt-blowing method, but *are then cut into short fibers* that are quite different from the long non-elastomeric fibers in claim 1. It is further noted that the only one apparatus for fabricating an elastic nonwoven fabric disclosed in Collier can merely handle particulate-like short non-elastomeric fibers, as mentioned in Applicants' prior Responses.

As for Sisson, though the non-elastomeric fibers used are long fibers, the long fibers cannot be made with a melt-blowing method. It is because a melt-blowing method causes air turbulence while the filament forwarding in Sisson requires positive and precise control for each individual

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filament and hence has to positively draw each filament to the formation point, as described in col. 7, lines 19-53.

In summary, Collier uses *short* non-elastomeric fibers the may be obtain through a melt-blowing method and cutting, while Sisson uses long non-elastomeric fibers *not made with a melt-blowing method*. Moreover, long non-elastomeric fibers cannot be used in the only one disclosed apparatus of Collier, and a meltblowing method cannot be used in Sisson.

According to MPEP §706.02(j), to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure.

Applicants respectfully submit that the first and the second basic criteria mentioned above are not met in this case for at least the following reasons.

First, since long non-elastomeric fibers cannot be used in the only one disclosed apparatus of Collier and a melt-blowing method cannot be used in Sisson, there is no suggestion or motivation to modify the references or to combine the reference teachings in a manner such that long non-elastomeric fibers made with a melt-blowing method are used. It is also noted that the teaching or suggestion to make the claimed combination (long non-elastomeric fiber + melt-blowing method) is not found in Collier or Sisson, for Collier discloses only one apparatus that can merely handle short

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non-elastomeric fiber and none of the processes disclosed in Sisson uses a melt-blowing method.

Second, there is no reasonable expectation of success for using long non-elastomeric fibers made with a melt-blowing method in view of prior art, because long non-elastomeric fibers cannot be used in the disclosed method or apparatus of Collier and a melt-blowing method cannot be used in Sisson. It is also noted that reasonable expectation of success for the claimed combination (long non-elastomeric fiber + melt-blowing method) is not found in Collier or Sisson, for Collier even does not disclose any apparatus capable of handling long non-elastomeric fiber and Sisson even does not disclose any process that uses a melt-blowing method.

For at least the above reasons, a *prima facie* case of obviousness cannot be established for amended independent claim 1. Therefore, Applicants respectfully submit that claim 1 patently defines over the prior art.

For at least the same reasons mentioned above, Applicants respectfully submit that claims 3-7 dependent from claim 1 also patently define over the prior art.

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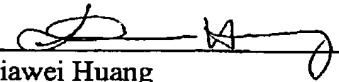
CONCLUSION

For at least the foregoing reasons, it is believed that pending claims 1, 3-7 and 11-12 are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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4 Venture, Suite 250
Irvine, CA 92618
Tel.: (949) 660-0761
Fax: (949)-660-0809

Respectfully submitted,
J.C. PATENTS


Jiawei Huang
Registration No. 43,330